

UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA

LANCE WILLIAMS,

Plaintiff,

v.

N. VERA, et al.,

Defendants.

No. 1:22-cv-00096-ADA-EPG (PC)

ORDER ADOPTING FINDINGS AND
RECOMMENDATIONS

(Doc. No. 9)

ORDER DENYING PLAINTIFF'S
APPLICATION TO PROCEED *IN FORMA*
PAUPERIS

(Doc. No. 11)

THIRTY (30) DAY DEADLINE

Lance Williams ("Plaintiff") is a state prisoner, proceeding *pro se*, in this action. The matter was referred to a United States Magistrate Judge, pursuant to 28 U.S.C. § 636(b)(1)(B) and Local Rule 302.

On January 26, 2022, the assigned Magistrate Judge entered findings and recommendations, recommending that Plaintiff not be allowed proceed *in forma pauperis* and that Plaintiff be directed to pay the \$402.00 filing fee in full if he wants to proceed with this action. (Doc. No. 9 at 6.) The findings and recommendations were served on Plaintiff and contained notice that any objections were to be filed within fourteen (14) days. (*Id.*) On January 31, 2022, Plaintiff filed an application to proceed *in forma pauperis*. (Doc. No. 11.) Following an extension of time, on April 11, 2022, Plaintiff filed his objections. (Doc. No. 15.)

1 Upon review of Plaintiff's objections, the court finds no basis to overturn the findings and
2 recommendations. Plaintiff stated that the issues raised in the complaint of the instant case were
3 initially raised in the complaint for *Williams v. Corcoran State Prison*, E.D. CA, Case No. 1:21-
4 cv-01009. (Doc. No. 15 at 1.) The case is distinguishable from the instant case and does not
5 support that Plaintiff's complaint falls within the imminent danger exception of the three-strikes
6 rule. Furthermore, Plaintiff cited to *Roberts v. Marshall*, 627 F.3d 768, 770 n.1 (9th Cir. 2010),
7 to argue that when a prisoner gives his pleading to a prison authority to mail to court, the court
8 deems such petition as filed on the date it was signed. (Doc. No. 15 at 3-4.) Plaintiff's complaint
9 was signed and dated on September 29, 2021, which is around five (5) months since the dates of
10 Plaintiff's allegations, April 28, 2021 through May 4, 2021. (Doc. No. 1 at 9.) Accordingly,
11 Plaintiff's complaint does not satisfy the imminent danger exception to the three-strikes rule, and
12 the court finds Plaintiff's objections unpersuasive to overturn the findings and recommendations.

13 In accordance with the provisions of 28 U.S.C. § 636(b)(1)(C), this court has conducted a
14 *de novo* review of the case. Having carefully reviewed the entire file, the court concludes that the
15 Magistrate Judge's findings and recommendations are supported by the record and by proper
16 analysis.

17 Accordingly,

- 18 1. The findings and recommendations issued on January 26, 2022, (Doc. No. 9), are
19 adopted in full;
- 20 2. Pursuant to 28 U.S.C. § 1915(g), Plaintiff is not allowed to proceed *in forma*
21 *pauperis* in this action;
- 22 3. Plaintiff's application to proceed *in forma pauperis*, (Doc. No. 11), is denied;

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1 4. If Plaintiff wants to proceed with this action, Plaintiff shall pay the \$402 filing fee
2 in full within thirty **(30) days** of the date of service of this order. If Plaintiff fails
3 to pay the filing fee in full within thirty (30) days, this action will be dismissed
4 without prejudice and without further notice.

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7 IT IS SO ORDERED.

8 Dated: September 13, 2022


UNITED STATES DISTRICT JUDGE